

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* HARRIS, Minors.

UNPUBLISHED  
November 20, 2018

Nos. 343227  
Wayne Circuit Court  
Family Division  
LC No. 15-519052-NA

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*In re* HARRIS, Minors.

No. 343228  
Wayne Circuit Court  
Family Division  
LC No. 15-519052-NA

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Before: MURRAY, C.J., and METER and GLEICHER, JJ.

GLEICHER, J. (*concurring*).

I concur with the result reached by the majority but would analyze the jurisdictional issue raised by respondent-father somewhat differently.

After an October 2016 bench trial, the trial court refused to take jurisdiction of respondents' four older children. Implicitly, the trial court found that respondent-father had not neglected these children. Indeed, respondent-father was entrusted with their continued care and custody. The trial court took jurisdiction only with regard to RH, the youngest child, who was born three months before the trial. Apparently the trial court believed that respondent-father should have known that respondent-mother was using drugs during her pregnancy with RH and somehow prevented her from doing so, despite its concomitant finding that respondent-parents were not living together. In my view, inadequate evidence supported jurisdiction as to respondent-father.

The majority correctly observes that under the current state of the law, a respondent may not collaterally attack a trial court's exercise of jurisdiction after the trial court has terminated the respondent's parental rights. *In re Hatcher*, 443 Mich 426; 505 NW2d 834 (1993). Our Supreme Court recently heard argument in a case challenging whether *Hatcher* was correctly decided. *In re Ferranti* (Supreme Court Docket Nos. 157907, 157908).

I cannot predict whether *Hatcher* will survive. If the Supreme Court overrules it, however, I believe that *Hatcher's* application in this case would amount to harmless error. In

2017, petitioner filed a new petition seeking jurisdiction of the older four children. The evidence subsequently presented focused on events that occurred after the first adjudication trial. The trial court properly assumed jurisdiction of the four older children based on new, up-to-date evidence. Respondent-father has raised no argument that the trial court's earlier and improper assumption of jurisdiction infected the subsequent proceedings or prejudiced his ability to avoid the later jurisdictional finding. Accordingly, I concur that respondent-father has not established a basis for disturbing the trial court's termination ruling.

/s/ Elizabeth L. Gleicher